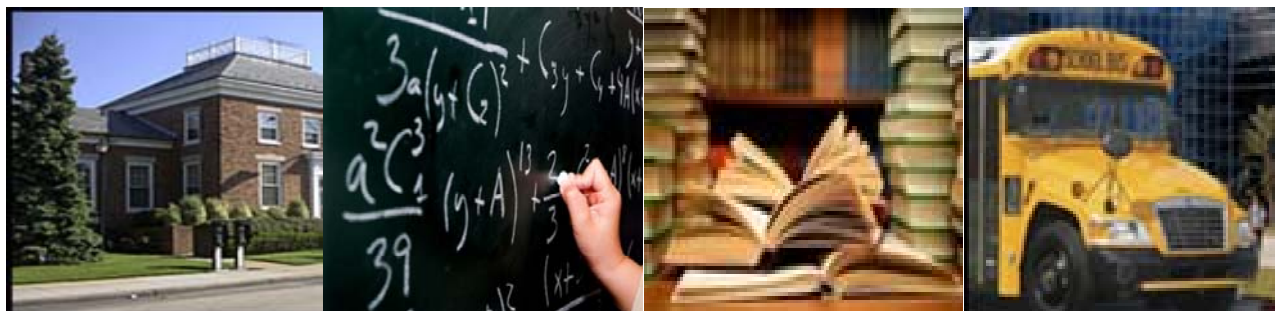




# **SCHOOL & MUNICIPAL SAVINGS INITIATIVE**

## ***Opportunities for Efficiencies through Shared Services***

**A Cooperative Effort by Nassau County,  
Nassau School Districts & Nassau BOCES**



Thomas R. Suozzi  
Nassau County Executive

September 22, 2008

## Executive Summary

In his 2008 State of the County address, Nassau County Executive Thomas R. Suozzi launched a historic shared services initiative to reduce school and county expenses and help reduce the need to increase taxes. The County Executive has assembled a dedicated group of individuals for this effort, including his own staff, Nassau school district superintendents, representatives from the Nassau-Suffolk School Boards Association and the Nassau Board of Cooperative Educational Services (BOCES), as well as other Nassau County officials, including County Comptroller Howard Weitzman<sup>1</sup>, with support provided by the State Commission on Local Government Efficiency and Competitiveness (LGEC). They have been meeting to identify ways school districts might save money by cooperating on back office functions while maintaining the high quality educational programs that have become the standard for Nassau County Schools.

The outcome of this unprecedented effort is promising. Recommendations contained in this report, once implemented, could conservatively save Nassau County school districts more than \$5 million, with tremendous potential for greater savings in the future. These recommendations fall into the following areas:

- I. Information Technology and Telecommunications
- II. Cooperative Purchasing
- III. Audit Services
- IV. Debt Issuance
- V. Legal Services

This report is a step toward County and school district cooperative savings and long-term opportunities for increased efficiencies. The group will continue to meet regularly to both pursue the initiatives presented in this report, as well as to present and follow-up on additional opportunities for savings.

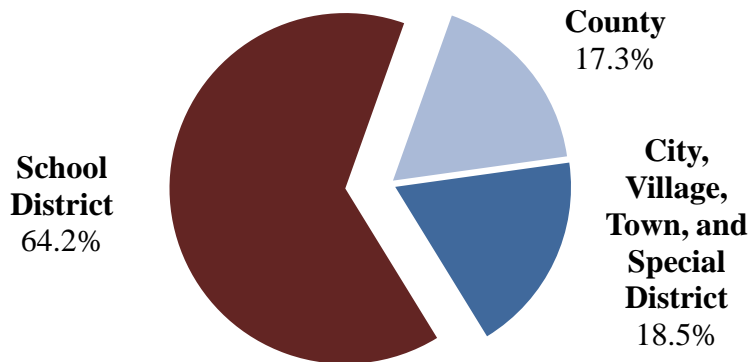
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<sup>1</sup> Nassau County Comptroller Howard Weitzman and his staff had input on the issues relating to audit.

## Context

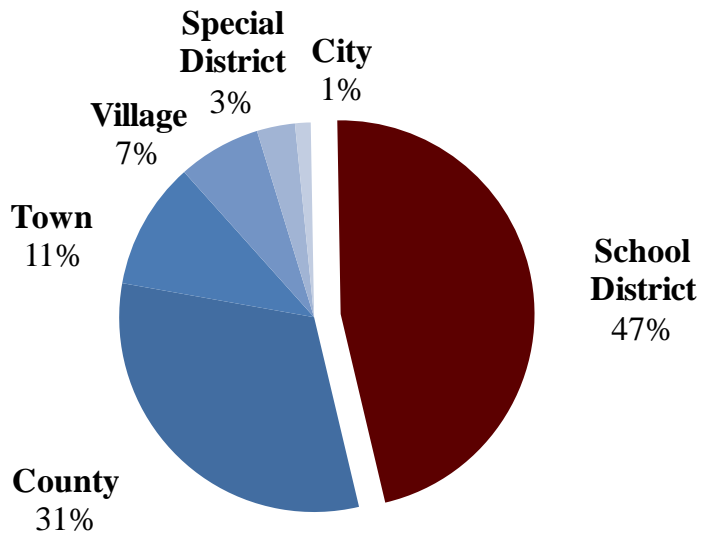
Of residents' property tax bills, approximately 64.2 percent goes to school taxes, 18.5 percent to cities, towns, villages and special districts and the remaining 17.3 percent to County taxes.

**2006 Property Tax Revenue**



These governments in Nassau County spent a total of \$9.4 billion in 2006. In that fiscal year, school districts accounted for \$4.4 billion of that spending.

**Total Spending by Governments in Nassau County in 2006**



Of that \$4.4 billion total, \$1.26 billion, or 30 percent of that amount, is for what has been called back-office functions. This group has focused on reducing these costs.

**2005-06 School District Costs in Nassau County**  
*\$4.4 billion total*



## ***Collaboration***

Along with Nassau County, Nassau BOCES would be instrumental in facilitating some of the functional consolidations of various shared services. Opportunities for savings through and with BOCES are addressed in the individual sections of this report, with the necessary statutory or administrative changes that would be necessary also outlined.

It is important to note and applaud the role of the New York State Commission on Local Government Efficiency and Competitiveness (LGEC) in this process. Many of the ideas explored by LGEC were generated at the grass roots levels of government, and its final recommendations grew out of these ideas. The final report included reference to some Nassau County initiatives, including the following reference:

*“A local initiative proposed by Nassau County Executive Tom Suozzi is examining the efficiencies that combining back-office services can provide, and the County Executive has proposed that a countywide entity (either a newly created county office of shared services or an expanded Nassau BOCES) to run school business operations, including payroll, purchasing and other management services.”<sup>2</sup>*

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<sup>2</sup> 21<sup>st</sup> Century Local Government, Report of the New York State Commission on Local Government Efficiency and Competitiveness, April 2008, page 42

There is real potential for the Nassau program to become a State demonstration project, and funding for such an initiative may be available through the restructured Local Government Efficiency Grant program being administered by the Department of State, which this group will aggressively pursue to help continue its efforts.

Finally, the New York State Commission on Property Tax Relief, chaired by County Executive Suozzi, endorsed the above recommendation as well as several others that came out of the LGEC and continues to advocate for passage. An overview of the five recommendations follows.

## ***I. Information Technology and Telecommunications***

### ***Recommendations:***

- ***Creation of “NassauNet,” a planned and coordinated countywide telecommunications and information technology network that utilizes the existing infrastructure of the County, the 56 school districts and BOCES. Potential exists to work with other municipalities across the County, which would increase savings. Would require State law change to enable BOCES cooperation with the County.***
- ***Allow the use of third party private providers/vendors for certain high-tech services for which schools could either separately or jointly contract. May require change or clarification of existing State Law or Education Department policy or administrative provisions. Would result in significant savings to the County, BOCES, school districts and other municipalities.***

Nassau County alone, excluding the cost of community college service, spends \$6 million a year on telecommunications services, including telephone, internet and mobile phone services, dedicated circuits and fiber. The annual telecom expenditures of Nassau BOCES and Nassau school districts total \$7.7 million. The nearly \$14 million spent collectively on these functions does not include expenditures by cities, towns, villages, and libraries, who have also expressed interest in cooperative services.

NassauNet would be the foundation for countywide cooperative services. Given that Nassau County will be bidding out its telecommunications contract in the coming months and BOCES bids out its contract every year, there exists an immediate opportunity for savings here, assuming State legislative authorization.

The working group also believes that additional, very significant savings can be realized by Nassau County, Nassau BOCES, school districts and other public entities if certain restrictions and constraints imposed by current laws, regulations and procedures were revised to allow for much greater use, individually and collectively, of third party private providers. It is neither efficient nor cost-effective for public entities to build capacity in certain high-tech areas in which there are skilled, cost-effective private companies with far greater capacity to stay current with cutting edge practices in the field.

Other potential areas for savings include:

- Capital savings, which can be realized through the elimination of separate County, school district and Nassau BOCES infrastructure investments and by combining operations in areas such as disaster recovery; and
- Operational savings, which can be realized by combining the bidding power of Nassau County and Nassau BOCES – and all other public entities through them – in bids for certain services and equipment.

The working group believes that \$1.4 million can be realized by Nassau County, Nassau BOCES and school districts in Nassau County in telecommunications operations and capital expenses over the next one to three years. Including other municipalities would increase savings.

## ***II. Cooperative Purchasing***

### ***Key recommendations:***

- ***Create a countywide out-of-district transportation cooperative and allow for a single contract.***
- ***Implement a countywide Just in Time purchasing program, across school districts, similar to that used by Nassau County, resulting in greater efficiency and cost savings among participating school districts.***

Cooperative purchasing is the primary function that most think of in terms of a typical back-office function which could deliver immediate savings through increased leverage and purchase power. The LGEC report recommended cooperative purchasing as a key back-office function that could be handled cooperatively, and a number of regions are pursuing such collaborations. Nassau BOCES, established by the State in 1948 to provide cooperative educational services would appear to be the natural vehicle for consolidated purchases. Nassau school districts have long cooperated in purchasing through Nassau BOCES, the State contract, other consortiums and the like, as well as Nassau County contracts.

Out-of-district transportation is an attractive target for savings primarily because of the high cost – estimated to be more than \$61 million, or 30 percent of the \$205.2 million in total Nassau school district transportation costs in 2006. The LGEC report cited one BOCES that estimated it could save five percent (\$1 million over 25 districts) by coordinating transportation and allowing a single contract. Similar savings for school districts in Nassau County would mean \$3.1 million in reduced costs. In addition, since many non-public and special education students from multiple districts attend common private or parochial schools from multiple districts, the working group believes that by collaborating, fewer vehicles will be needed to transport these students collectively to the same school. Two multiple school district collaborations are in operation, utilizing a consultant to plan the routes. A school superintendent from the working group has

distributed a letter to other Nassau school superintendents to see if other schools might also benefit from such collaboration.

A second opportunity for school district purchasing savings may be found in the County's Just in Time purchasing program. Nassau County's Purchasing Department has conservatively estimated savings through the program to be approximately 12 percent of total spending. The County's Purchasing Department has begun to work with select school districts to evaluate the efficacy of such a program for them. The group will begin to vet the program with the Office of the State Comptroller to assess audit and other implications.

The Purchasing Working Group believes that more than \$3.1 million may be saved on out-of district transportation alone, if the savings by school districts in Nassau County replicated those reported by the LGEC. Additional savings – as much as 12 percent of costs associated with the school district purchasing function – were to replicate those experienced by Nassau County through its Just in Time purchasing system.

### **III. Auditing**

#### **Key recommendations:**

- *Centralize the internal audit function by utilizing the County Comptroller to perform internal control risk assessments, thereby reducing costs by individual school districts and increasing consistency and the sharing of best practices across school districts.*
- *Increase cooperation between the external and internal auditors, thereby reducing the external audit fee incurred by individual school districts.*

Nassau County's 56 school districts spent \$3.6 million on audit services in 2006. The working group has estimated that approximately one third of that amount, or \$1.2 million was spent on the internal audit function. If granted additional resources for this purpose, the County Comptroller has offered the assistance of his office to perform internal control risk assessments for school districts in the County, which could result in an estimated savings of \$600,000 in 2006 dollars – or one half the school districts' current costs for internal audits. In addition to this savings, centralizing this function in the Office of the County Comptroller will enhance best practices for internal audits through quality control, with a consistency and standardization in application in place for school districts countywide.

This cost was greatly impacted by Chapters 263 and 267 of the Laws of 2005 which increased school district audit responsibilities. These new laws reflected the State's intention to strengthen oversight and increase accountability of school district finances. The revised law addressed seven key areas including: required training of school board members; establishment of an internal audit function; clarification of requirements for school district claims auditors; increased audit responsibilities, including a district's required establishment of an audit committee; required use of "request for proposals"



(RFPs) for procurement of annual external audit services; and audits of school districts and BOCES by the Office of the State Comptroller.

Nassau County school districts are now required to have three distinct audit functions performed: external; claims; and internal control. In addition, the school districts are required to file the federal single audit, mandatory for all governmental entities that receive federal aid. The purpose and function of each audit is materially different, and the costs of each are based on the requirements of each audit.

The external audit function is not new, and is critical as it provides the public with an independent report of the district's financial condition. As such, this function is not considered a good candidate for inclusion in the function of any centralized audit bureau.

The external auditor also assesses internal audit risk and its impact on the materiality of financial statements. The group is suggesting that the external auditor could potentially rely on the work of the internal auditor (who conducts a more thorough assessment of internal control risk) to assess the overall risk of what is reported on the financial statements. The State Comptroller and/or the County Comptroller may provide useful guidance in the management of these two functions, including the development of an internal audit guide. The group believes that the main focus for possible savings in auditing functions may best be achieved by focusing on making modifications to the internal audit function.

#### ***IV. Debt***

##### ***Key recommendations:***

- ***Grant Nassau BOCES authority to approve school district construction projects costing \$1.5 million or less, rather than depending on State Education Department approval.***
- ***Consolidate cash flow borrowing among school districts for which state aid is at least twice the amount they need to borrow for cash flow purposes.***

Debt service (principal and interest on bonds and notes) by school districts in Nassau County was \$131.5 million in 2006, and Tax Anticipation Notes (TANs) for cash flow borrowing totaled \$395.5 million, according to the State Comptroller's *Special Report on Municipal Affairs*. After careful review, the Debt Working Group has recommended two possibilities which require additional evaluation and/or State law or regulatory change to bring savings to this particular function for school districts in Nassau County: 1) authorization for BOCES to approve school district construction projects costing \$1.5 million or less; and 2) authorization for pooled short-term cash flow borrowing for school districts for which State aid is at least twice the amount as the cash flow need in a given year. No estimate of potential savings is possible until qualifying projects and eligible school districts are identified.



School districts typically borrow for two general purposes: to fund capital needs; and to address cash flow shortages over the course of their fiscal year. The 56 school districts in Nassau County are subject to the same legal requirements (e.g., New York State's Constitution and Local Finance Law and the federal tax code and securities laws), and generally borrow for similar projects and reasons. Therefore, it was deemed reasonable to explore the possibility that the districts might save money through a lower cost of issuance, and interest savings.

The group believes there could be savings in one of more of the following three ways: A single transaction would reduce transaction costs such as rating agency, underwriting, and legal expenses; a single larger issue could attract a greater number of investors, with greater competition lowering the interest cost; and the specific construction of the debt would lead to a high credit rating (AA or higher – as high as, or higher than, that of Nassau school districts), thereby lowering the cost of insurance and/or interest.

New York State has developed a statutory program which allows for pooled financing for capital projects, through its Dormitory Authority (DASNY), with the State Comptroller authorized to intercept school district State aid in the event of non-payment on the bonds. The program requires initial and annual charges to offset DASNY administrative costs. The group was unable to construct an alternative means for Nassau school districts to save money through a countywide cooperative for school district capital borrowing, due to the following factors: districts do not borrow at the same time, but only when the need arises and their Board of Education and the State Education Department have approved the project; and the unique documentation needed for each school district debt issue precludes likely transaction savings.

However, the group found that delays in the current approval process are inefficient and costly. Therefore, the group recommends that Nassau BOCES be granted the power to approve school district construction projects costing \$1.5 million or less.

Savings through collaborative school district short-term debt issuance for cash flow purposes, however, may be possible because: all districts borrow for cash flow needs at approximately the same time; the district chief financial officer is empowered to determine the amount of the borrowing; and no Board of Education or State Education Department approval is required.

For many school districts, State aid is less than the amount needed for cash flow borrowing; however, for those school districts for which State aid is at least twice the amount they need to borrow for cash flow purposes, a cooperative cash flow debt issue may be cost-effective. The group believes the savings would be in the reduction in transaction costs for the one document and a possibility of reduced interest costs through a higher level of investor interest and perhaps a higher credit rating than these Nassau districts currently achieve. Implementation of this proposal would require statutory amendment.

## V. Legal Services

### **Key recommendation:**

- ***Based on each individual school board's decision, utilize County Attorney's office for free legal services on a select variety of school district issues. Continue to explore opportunities for shared services.***

As with other units of government, school districts are subject to claims, litigation and ongoing issues that require the services of legal counsel. Ready access to lawyers with the necessary skills and experience is critical in continuing to provide the high quality educational services that Nassau County residents have come to expect from their schools.

Nassau County and school district working group members are interested in mutually exploring opportunities to potentially reduce the cost of legal services to help reduce overall operating costs through a shared services initiative. Both attorneys for a school district and County attorneys are often called upon to help in many ways, including establishment of policies, researching legal issues, and ensuring that all activities are in full compliance with the myriad general and case laws, regulations, and pertinent arbitration decisions that govern their operations. Because this will be an entirely optional program and participation is uncertain at this time, no savings are quantifiable for this first, exploratory phase.

In order to provide concrete experience to the ongoing discussion regarding possible opportunities for lowering the cost of high quality school district legal services, the Office of the County Attorney has offered to provide, on a trial basis and only upon written school board request, free legal services on a select variety of school district issues for a period of one year. The group anticipates that this exploratory effort will provide experiential data to enable the working group to evaluate the potential for expanding the effort.

# CHAPTER I

## Opportunities for Information Technology and Telecommunications Service Savings

Information Technology (IT) and Telecommunications (Telecom) play essential roles in today's world of fast, secure and reliable information transfer. Increasing costs associated with IT and Telecom apply upward pressure to the budgets of all business operations today, including that of government and school districts. The Information Technology and Telecommunications Working Group has determined that a conservative cost savings of \$1.4 million for county, school districts, and BOCES could be realized in both operations and capital expenses associated with IT and Telecom over the next one to three years by combining resources and procurement practices. More extensive savings could be realized if other localities and libraries within Nassau County also join in. The working group makes the following primary recommendations:

### ***Recommendations:***

- ***Creation of "NassauNet," a planned and coordinated countywide telecommunications and information technology network that utilizes the existing infrastructure of the County, the 56 school districts and BOCES. Potential exists to work with other municipalities and libraries across the County. Would require State law change to enable BOCES cooperation with the County***
- ***Allow the use of third party private providers/vendors for certain high-tech services for which schools could either separately or jointly contract. May require change or clarification of existing State Law or Education Department policy or administrative provisions. Would result in significant savings to the County, BOCES, school districts, libraries, and other municipalities.***

Nassau County alone, excluding the cost of community college service, spends \$6 million a year on telecommunications services, including telephone, internet and mobile phone services, dedicated circuits and fiber. The annual telecom expenditures of Nassau BOCES and Nassau school districts total \$7.7 million. The nearly \$14 million spent collectively on these functions does not include expenditures by cities, towns, villages, and libraries, who have also expressed interest in cooperative services.

NassauNet would be the foundation for countywide cooperative services. Given that Nassau County will be bidding out its telecommunications contract in the coming months and BOCES bids out its contract every year, there exists an immediate opportunity for savings here, assuming State legislative authorization.

The working group also believes that additional, very significant savings can be realized by Nassau County, Nassau BOCES, school districts and other public entities if certain restrictions and constraints imposed by current laws, regulations and procedures were

revised to allow for much greater use, individually and collectively, of third party private providers. It is neither efficient nor cost-effective for public entities to build capacity in certain high-tech areas in which there are skilled, cost-effective private companies with far greater capacity to stay current with cutting edge practices in the field.

Other potential areas for savings include:

- Capital savings, which can be realized through the elimination of separate County, school district and Nassau BOCES infrastructure investments and by combining operations in areas such as disaster recovery; and
- Operational savings, which can be realized by combining the bidding power of Nassau County and Nassau BOCES – and all other public entities through them – in bids for certain services and equipment.

The working group believes that \$1.4 million can be realized by Nassau County, Nassau BOCES and school districts in Nassau County in telecommunications operations and capital expenses over the next one to three years.

### **Discussion:**

There is a great deal of interest and momentum countywide behind developing an Information Technology and Telecommunication Nassau Network. Nassau County, Nassau BOCES, and other local municipalities and school districts have been discussing the many possibilities for efficiencies, savings, and enhanced services. Both Nassau BOCES and Nassau County supply an extensive array of IT and Telecom services, and they have acquired, and continue to maintain, the assets to support them. As discussions have progressed, it is clear that a great deal more can be accomplished through the very real synergy that would be created if these two large governmental service providers were to coordinate their efforts.

Strategic and targeted investment is critical to the ongoing ability of school districts and government to provide up-to-date resources to the community, educators, students, and their parents. Factors that make attaining and maintaining up-to-date technology a challenge for them include the following:

1. The high initial and subsequent costs for maintenance of systems and equipment;
2. The required level of expertise and experience for IT staff (particularly the leadership) given the rapidly changing universe; and
3. The wide range of products and services that is expected in an up-to-date organization.

A very real and immediate opportunity for savings from telecommunications services has been identified, and a strategy for long-term collaboration is being fleshed out with steps to advance accomplishment. A very credible goal is a minimum of 10 percent to 15 percent savings for all participants, with savings within the next 6-12 months on the short-term strategy. Moreover, it is expected that even the so-called “long term” strategy, in fact might be accomplished within the next few years. Moving forward with this initiative would require State authorization.

### **TELECOM PLAN for IMMEDIATE SAVINGS**

Nassau County will soon be bidding out its next telecommunications contract and Nassau BOCES bids out its contracts every year. Therefore, the timing is right to take advantage of an excellent opportunity for any public entity – the County, BOCES, school districts, libraries, cities and towns – to join in the bid to create a large pool and thus realize both significant economies of scale and application of the latest technology.

Although precise amounts of future savings are difficult to predict, BOCES has already brought telecom rate savings to its own school district pool. For example, the Herricks School District (a very average size school district in Nassau County) moved from Verizon Intellipath, with a Lightpath 50 MPS Internet service, to a BOCES competitive bid for 3 Primary rate voice service and 50 MPS from Lightpath. Herricks previously paid \$85,932 a year by itself; through BOCES, the cost was \$46,800 a year – a 45.5 percent reduction in cost. Given this experience, it is likely the 10 percent to 15 percent savings target is conservative, but very realistic.

### **RECOMMENDATIONS for IMMEDIATE TELECOMMUNICATIONS SAVINGS**

1. **Assessment of Need:** Nassau County and BOCES should work together to canvas school districts countywide to assess their telecommunications needs and to communicate the potential savings and service benefits that might accrue to those participating in a countywide pool. All other municipalities and libraries in Nassau County may also wish to participate.
2. **Assessment of Legal Issues:** Simultaneously, the County Attorneys’ Office and BOCES attorneys should work together to assess all legal issues relating to a collaborative bid and make recommendations necessary to accomplish a cooperative agreement for the county, BOCES and school districts in Nassau County for provision of Telecom Services. These groups should develop a draft of the State law change that is needed to implement the recommendation, and Nassau County, Nassau BOCES, and school districts in Nassau County should strongly advocate for adoption of the necessary change.
3. **Develop Plan for Cooperative Bid:** A Request for Proposals (RFP) should be developed to meet the needs of anticipated participants.

## **LONG-TERM PLAN FOR INFORMATION TECHNOLOGY SAVINGS**

The opportunity for Nassau County, BOCES, school districts, libraries and local governments to save money and enhance available Information Technology is substantial. Individual school districts currently use BOCES in many areas of technology. Generally, the areas which are most effective and least costly are the ones in which BOCES is least constrained. The potential for much greater cooperation in the future hinges on: a) changing State law and rules (unofficial as well as official); and b) allowing BOCES to make much, much greater use of private contractors.

Every one of the 56 Nassau County school districts utilizes some of a variety of BOCES IT services. All but two school districts use BOCES data warehousing.

### **Current IT/Telecommunications Status**

There is significant overlap between the services that BOCES and Nassau County provide. Currently, the County IT and BOCES systems both provide:

- Multiple software applications;
- Administrative office support;
- Disaster recovery services;
- Data warehousing;
- On-line information resources;
- Help desk services;
- Technical services;
- Teleconferencing services;
- Application support;
- Project management support;
- Repair and maintenance resources; and
- Fiber and IT resources.

Given the commonality in service and asset resources, BOCES and Nassau County are in an ideal position to work together on major strategic infrastructure projects such as: fiber optic lines; WIFI or some other wireless network; systems back-up; emergency plans; and bundling of bids (beyond what BOCES already does with school districts) on both hardware/software and services to gain leverage with private companies. Clearly the first steps to collaboration will need to include both asset mapping and organized and cooperative planning.

## **RECOMMENDATIONS for LONG-TERM IT SAVINGS**

To effectuate this long term strategy, a number of immediate steps will need to be taken:

1. **Quantify Costs and Profile Assets:** Immediately begin the process of quantifying the current cost of services and mapping all assets (e.g., public buildings, fiber, broadband service, inter-building connectivity, skill sets of involved personnel) throughout Nassau County, including the providers of IT/Telecom services. This work may be eligible for a grant to enable mapping of all governmental entities in Nassau County.
2. **Create Nassau IT/Telecom Advisory Council:** Develop a Nassau IT/Telecom Advisory Council whose first step will be to develop a statement of its vision and charter. The group would include knowledgeable representatives from Nassau County, BOCES, school districts, libraries, cities and towns. The primary goal will be to save 10 percent to 15 percent or more through cooperative enterprise and resource sharing and management. This very clear focus will enable the group to move quickly on to next steps. In terms of IT and Telecommunications, the envisioned BOCES role is that of working with the County on development of a full scale Nassau Net that could greatly enhance local services at a considerable savings.
4. **Assess Legal Issues:** As with the Telecom plan, the County Attorneys' Office and BOCES attorneys should work together to assess all legal issues relating to the Nassau County/BOCES IT Collaborative, and make recommendations necessary to accomplish the Advisory Council's vision. As for the Telecom initiative, these two entities and school districts should develop a draft of the State law change that is needed to implement the recommendations and all interested in participating (including libraries and municipalities, as well as school districts) should strongly advocate for adoption of the necessary change.
3. **Spread the Word:** Publicize the Council and its vision. It is important that all public entities know that this process is underway, so that they will consider joining the cooperative effort as their various IT/Telecom services come up for renewal.
4. **Business Plan:** Cooperatively develop the business plan and timeline for expeditious accomplishment of the Advisory Council's objectives. Work with the Governor's Office, State Legislature, State Education Department and Office of the State Comptroller to maximize flexibility for Nassau County and Nassau BOCES to enable cooperative bidding for private sector services, including cutting-edge personal services, where needed for rapid accomplishment of the Council's plan and realization of the vision.



## **Conclusion**

By working together, Nassau County, Nassau BOCES and all the Nassau County school districts have begun the strategic planning of collaborative ventures to prevent further duplication and avoid underutilization of current assets. They are sharing information to take advantage of opportunities for immediate savings and making long-term plans for large scale IT savings and integrating the enhancements of today's technology and the wave of the future. This initiative could also bring savings to libraries and municipalities that choose to participate. With State authorization, this initiative could produce at least \$1.4 million in savings over a few years.

## CHAPTER II

### Opportunities for Cooperative Purchasing Savings

Areas (and the associated expenditure amount, if available) where cooperative purchasing may be advantageous to schools include: Transportation (in 2006: \$205.2 million, of which \$163.8.5 million is privately contracted and \$7.4 million is provided by BOCES); Energy (2005: \$90 million of which 48 percent was for electric, 27 percent for heating oil; and 25 percent for natural gas); Operation and Maintenance supplies; high volume printing and copying; and office supplies and staples.

The Purchasing Working Group believes that more than \$3 million may be saved on out-of-district transportation alone, if the savings by school districts in Nassau County replicated those reported by the LGEC. Additional savings – as much as 12 percent of costs associated with the school district purchasing function – were to replicate those experienced by Nassau County through its “Just in Time” purchasing system.

#### ***Key recommendations:***

- ***Create a countywide out-of-district transportation cooperative and allow for a single contract.***
- ***Implement a countywide Just in Time purchasing program, across school districts, similar to that used by Nassau County, resulting in greater efficiency and cost savings among participating school districts.***

Cooperative purchasing is the primary function that most think of in terms of a typical back-office function which could deliver immediate savings through increased leverage and purchase power. The LGEC report recommended cooperative purchasing as a key back-office function that could be handled cooperatively, and a number of regions are pursuing such collaborations. Nassau BOCES, established by the State in 1948 to provide cooperative educational services would appear to be the natural vehicle for consolidated purchases. Nassau school districts have long cooperated in purchasing through Nassau BOCES, the State contract, other consortiums and the like, as well as Nassau County contracts.

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consultant to plan the routes. A school superintendent from the working group has distributed a letter to other Nassau school superintendents to see if other schools might also benefit from such collaboration.

A second opportunity for school district purchasing savings may be found in the County's Just in Time purchasing program. Nassau County's Purchasing Department has conservatively estimated savings through the program to be approximately 12 percent of total spending. The County's Purchasing Department has begun to work with select school districts to evaluate the efficacy of such a program for them. The group will begin to vet the program with the Office of the State Comptroller to assess audit and other implications.

### **Discussion:**

#### **Background: BOCES**

BOCES (the Board of Cooperative Educational Services) was created in 1948 to provide shared educational programs and services to (primarily rural) school district that would have otherwise been uneconomical, inefficient or unavailable. BOCES has been considered the entrepreneurial arm of the State Education Department (SED), and represents SED in Nassau County on a day-to-day basis, although all BOCES services must be approved by the SED Commissioner. In addition, all school district building projects must be approved by SED before these efforts can move forward.

BOCES has been authorized to provide:

- Educational services (e.g., vocational education; physical and occupational therapy for students with disabilities; teacher training; and literacy programs for adults); and
- Instructional support services (e.g., coordination of supervision; central bus maintenance; central business office; and regional computer centers).

Nassau BOCES has not been encouraged to serve as a third party broker for consolidated contracts between school districts and private firms. BOCES, however, may and does engage in a number of private sector contracts where it is a component of providing other BOCES services.

A significant issue for school district determinations regarding the use of BOCES services relates to BOCES State aid. Various services are supported in part (36 percent to 90 percent) primarily based on district wealth and need. Consistent with its original mission to provide cooperative educational services, in many instances the State has been reluctant to provide BOCES financial support for business services that do not have an educational component. For the most part, Nassau BOCES is not authorized to act as a third party broker to contract with private entities for school district purchasing without additional BOCES aid. It should be noted that other BOCES in New York State have been given authority to undertake cooperative purchasing for a wider variety of supplies

and services. For example, Monroe2 – Orleans BOCES does cooperative purchasing of natural gas and electricity for its member districts.

Therefore, at this time, although Nassau BOCES would appear to be the natural vehicle for consolidated purchases based on its broad capacity to provide educational services, in fact it has limited authorization to serve as a third party broker in terms of consolidated purchasing.

### **Background: Nassau County**

School districts are currently authorized to purchase off Nassau County contracts. Therefore, there would be nothing to prohibit the County itself serving as facilitator and/or third party purchasing agent on behalf of school districts within the County.

A number of opportunities for possible collaborative purchasing have been identified. These include: office supplies and staples; out-of district transportation; energy; high volume printing and copying; certain operation and maintenance supplies (e.g., road salt and sand).

While some of these options may take some time to coordinate, the savings could make the investment of time in exploring the issue worthwhile. For example, the survey found that Nassau school districts spend \$22 million a year for natural gas contracts alone. At this time only 11 of the County's 56 school districts reported using a high volume copy center.

### ***An Immediate Cooperative Purchasing Option – Out-of District Transportation***

Various survey results showed the costs of transportation by category are as follows: public student transportation averaged \$859 per pupil in 2005 spending; non-public cost per student average in the current working groups preliminary results averaged \$1,242 per student; and special education transportation cost in the group's preliminary survey results averaged \$15,198 per student. The dramatic difference between these costs could indicate that by bidding for transportation services collectively, particularly for out-of-district transportation services – there could be savings on many contracts.

Nassau school districts have long cooperated in purchasing through Nassau BOCES, the State contract, other consortiums and the like, as well as Nassau County contracts. Inclusion of the County itself serving as a facilitator in this initiative could further leverage these cooperative efforts to achieve additional cost savings. Moreover, since many non-public students attend common private or parochial schools from multiple districts, it is likely that by collaborating, fewer vehicles will be needed to transport these students collectively to the same school, at savings for all collaborating districts. In fact two multiple district collaboratives have already begun such programs, with the assistance of consultant with the capacity to plan the routes.

The group believes that this small start can be expanded to mutual benefit. Institutionalizing the effort through a management board of the cooperative, Nassau BOCES or Nassau County could help maintain the effort, rather than relying upon a dedicated group of individuals who will at some point move on to other challenges. A letter to school superintendents countywide by a member of this group has been circulated to expand the pool of participating districts for the 2008-09 school year. The Purchasing Working Group believes that more than \$3 million may be saved on out-of-district transportation alone, if the savings by the 56 school districts in Nassau County replicated those reported by the LGEC.

### ***An Second Immediate Cooperative Purchasing Option: Just in Time Purchasing***

Nassau County has developed an extraordinary concept (Just in Time Purchasing) that has proven to save personnel time dramatically since institution in January 2004. The County's Purchasing Department has begun to work with select school districts to evaluate the efficacy of such a program for them.

The County is currently exploring the possibility of expanding its current practice and expects a similar result. It is possible that this same concept could similarly help Nassau school districts, particularly with County assistance and the benefit of Nassau's experience.

The majority of the savings in the Just in Time purchasing program was in the processing efficiencies that were an intrinsic part of the program. Nassau County's Purchasing Department has conservatively estimated savings in product at 4 percent to 5 percent a year, and 90 percent processing savings compared to the previous cost. ("Processing" is an inclusive term, encompassing all tasks related to processing of individual orders, from requisition through check payment.) Total savings is quantified at \$200,000 of \$1.6 million in spending.

The "Just in Time" purchasing system could offer a viable option for using consolidation techniques to increase efficiency and lower procurement costs for school districts throughout Nassau County. The plan requires careful construction of information, and delivery chains among the specific schools, vendor(s), and participating bank(s). The County's guidance is expected to facilitate exploration of this particular initiative.

The County may also provide valuable assistance to school districts in their effort to gain the support of the Office of the State Comptroller, and subsequently, their external auditors (who are likely to rely heavily upon the State Comptroller's opinion). The County has gotten clearance from the Office of the Nassau County Comptroller, and has a proven track record in the system. The Nassau Comptroller has agreed that spot checks within the system are adequate (rather than a line-by-line process); this process is crucial to ensure the efficiency upon which the savings primarily depend. The County could offer support to districts working through this and other issues, to ensure that the school

district “Just in Time” system meets the internal and external financial control requirements for approval by the Comptroller’s office.

After gaining auditor/State Comptroller assurance of the legitimacy of the system for school district purposes, the districts must gain the agreement of the particular vendor and their banking partner. It is expected that the program would more quickly gain the agreement of vendors and banks (given the relatively small size of districts relative to Nassau County), if the districts entered into this program as a collaborative, with individual accounts, but as a single entity. This factor may be facilitated by the support of Nassau County or BOCES to coordinate the system.

There are a number of factors that create the efficiencies of the system for the County:

- The vendor is able to reliably (at a rate of approximately 99 percent, fill rate), overnight orders within the County;
- The vendor compiles a single invoice each month, detailing all orders; and
- The vendor and bank are willing and able to keep track of purchase cards and declining balances.

The last two factors are absolutely essential to both the efficacy and efficiency of the program. The task for the working group will be to ensure that a vendor and a bank are willing to duplicate this structure for the school district collaborative.

The program places structural requirements on the bank holding funds for the participating school districts. The participating bank must be able to hold records of purchase cards and declining balances. The bank would also have to create separate accounts with index codes and be willing to pay vendors directly. Specific account information must be accessible through the internet and the system for payments and accounting must meet preexisting internal control requirements without becoming overly cumbersome.

There are a quite number of unique requirements to ensure the program functions as effectively for school districts as it has for Nassau County. Nonetheless, with the support of the State Comptroller as to the adequacy of the internal control of this program for school districts, it is expected that both the system and the collective purchasing feature will improve the bargaining position of the districts, providing greater leverage by aggregating the purchasing power of individual schools within the County. Presumably, the size of the collective orders will motivate vendors to waive some of the usual procurement fees, resulting in additional savings.

## **Conclusion**

There are two very exciting possibilities for immediate school district cooperative purchasing: the non-public school transportation collaborative; and “Just in Time” purchasing system. Undoubtedly many more opportunities will develop to the extent that these programs are instituted and expanded over time. The essential first step for Nassau school districts in terms of “Just in Time” purchasing must be between the school districts and the Office of the State Comptroller.

In the long-term, Nassau school districts may want to explore an expansion of supplies and services Nassau BOCES provides (including costly purchases for natural gas and electricity), to assess the extent to which savings such as those afforded to school districts in the Monroe2 – Orleans BOCES may be available to Nassau school districts as well.



## CHAPTER III

### Opportunities for Audit Savings

Nassau County's 56 school districts spent \$3.6 million on audit services in 2006. The working group has estimated that approximately one third of that amount, or \$1.2 million was spent on the internal audit function. If granted additional resources for this purpose, the County Comptroller has offered his office's assistance to perform internal control risk assessments for school districts in the County, which could result in estimated savings of \$600,000 (in 2006 dollars) – essentially one half the school districts' current costs. In addition to this savings, centralizing this function in the Office of the County Comptroller will enhance best practices for internal audits through quality control, with a consistency and standardization in place for school districts county-wide.

***Key recommendations:***

- ***Centralize the internal audit function by utilizing the County Comptroller to perform internal control risk assessments, thereby reducing costs by individual school districts and increasing consistency and the sharing of best practices across school districts.***
- ***Increase cooperation between the external and internal auditors, thereby reducing the external audit fee incurred by individual school districts.***

The overall cost of school district auditing services was greatly impacted by Chapters 263 and 267 of the Laws of 2005 which increased school district audit responsibilities. These new laws reflected the State's intention to strengthen oversight and increase accountability of school district finances. The revised law addressed seven key areas including: required training of school board members; establishment of an internal audit function; clarification of requirements for school district claims auditors; increased audit responsibilities, including a district's required establishment of an audit committee; required use of "request for proposals" (RFPs) for procurement of annual external audit services; and audits of school districts and BOCES by the Office of the State Comptroller.

Nassau County school districts are now required to have three distinct audit functions performed: external; claims; and internal control. The purpose and function of each audit is materially different, and the costs of each are based on the requirements of each audit.

The external audit function is not new, and is critical as it provides the public with an independent report of the district's financial condition. As such, this function is not considered a good candidate for inclusion in the function of any centralized audit bureau.

The external auditor also assesses internal audit risk and its impact on the materiality of financial statements. The group is suggesting that the external auditor could potentially

rely on the work of the internal auditor (who conducts a more thorough assessment of internal control risk) to assess the overall risk of what is reported on the financial statements. The State Comptroller and/or the County Comptroller may provide useful guidance in the management of these two functions, including the development of an internal audit guide. The group believes that the main focus for possible savings in auditing functions may best be achieved by focusing on making modifications to the internal audit function.

**Discussion:**

The 2005 revised law addressed seven key areas including:

- Requirements for training of school board members;
- Establishment of an internal audit function;
- Clarification of the responsibilities related to the position of claims auditor;
- Enhancements related to audits;
- Creation of an audit committee;
- Requiring use of a request for proposals (RFP) for the procurement of the annual audit of the financial statements; and
- Audits of school districts and BOCES by the Office of the State Comptroller.

Nassau County school districts are now required to have three distinct audit functions performed: external; claims; and internal control. In addition, school districts are required to file the federal single audit, mandatory for all governmental entities that receive federal aid. (Circular A-133 is issued under the authority of the United States Code, and Executive Orders 8248 and 11541).

The purpose and function of each audit is materially different, and the costs of each are based on the requirements of each type of audit.

**INTERNAL AUDIT**

Effective July 1, 2006, New York State school districts must establish an internal audit function.<sup>3</sup> The internal auditor must report to the Board of Education. According to the State Education Department's guidance, the function is required to include:

- An initial risk assessment of district operations including, but not limited to, a review of school district business policies and procedures;
- An annual review and update of such risk assessment;

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<sup>3</sup> An exemption to this requirement can only be claimed for schools with less than 8 teachers, general fund expenses of less than \$5M in the prior year or enrollment of less than 300 students in the prior year.

- Periodic testing and evaluation of one or more areas of the district's internal controls; and
- Preparation of reports, at least annually or more frequently as the trustees or board may direct, which identify significant risks and recommended changes for strengthening controls and reducing risks; and
- Developing specific timeframes for implementing recommendations.

Again, according to the State Education Department, internal auditing is required to:

- Allow management to monitor the adequacy and effectiveness of internal controls and compliance with legal and contractual provisions applicable to the management of public funds; and
- Provide management with information on current performance to aid in its decision-making on future financial plans.

The State Comptroller has indicated that the following qualifications are necessary to adequately address the internal audit function; the auditor must:

1. Be independent of district business operations;
2. Have the requisite knowledge and skills to complete the work; and
3. Meet the other general standards, fieldwork standards, and reporting standards for audits, as appropriate.

While many districts have found it necessary or convenient to hire a private contractor for this function, district staff may also perform the function, provided the employee used holds a position that is independent of the business functions. Other legal options for establishing the internal audit function include: cooperative agreements; BOCES (although the State does not provide BOCES aid for the function); or other shared service agreements.

***Internal Audit Discussion:*** Districts have found that the internal audit function is costly. The Nassau County Audit Working Group felt that the cost of the internal audit services outweighed the benefit provided to the districts. This may be due to the lack of expertise within the district on what to instruct the internal auditor to do. For example, internal audits of school districts have historically only concentrated on internal control risks. The districts need to require the internal auditors to focus on performing an initial internal control risk assessment and, based on the results, perform cycle tests. The goal of the internal control function should be to review the districts' policies, procedures and controls that detect, deter, and prevent fraud, and could potentially identify areas of cost savings or improved efficiency.

In addition, the Nassau County Audit Working Group is in agreement that the law could be more specific with respect to defining the actions necessary to be in compliance with the requirement to perform an annual review and a risk assessment update. Performing a full risk assessment every year would be quite costly and the offsetting benefit is not evident. The development of a standard approach to ensure compliance with the law while achieving the greatest benefit at the lowest cost to districts should be sought and sanctioned by the NYS Comptroller. For example, a full risk assessment could be performed in Year 1 to identify areas of high, moderate and low risk; these findings could then be used to create a multi-year audit cycle approach. Subsequently, on an annual basis, the overall risk assessment review would be updated to identify changes from the initial year and its impact on the risk assessment and the multi-year plan. Then in accordance with the multi-year plan, the internal audit function would include performing in-depth reviews of risk rated cycles and their specific functions.

The Nassau County Audit Working Group also believes that additional cost savings may be achieved by requiring the integration of the internal and external auditors' efforts and eliminating any duplication of their work. The external auditor should be able to review and determine the extent of reliance to be placed on the internal auditor's work. This could potentially reduce the external auditor's workload and result in savings to school districts on the external audit fee.

The Nassau County Audit Working Group believes that if there is standardization of the internal audit procedures performed among the school districts, there would be significant savings to County taxpayers. This, coupled with consistency in report the results of the internal audits, would help districts benefit from best practices. The Nassau County Audit Working Group believes that the cost of this function could be reduced without any reduction in the quality of the internal/external audit performance. In fact, as with the other audit requirements, quality may be increased through a centralized group of experienced auditors, and there would likely be greater uniformity in application.

**In the short-term,** the support of the State Comptroller's Office would be beneficial in interpreting the requirements of the law and helping develop a standard approach to be used by the internal auditor to ensure compliance with the law. The County Comptroller's Office is willing to assist school districts with the internal control risk assessments of school districts, to the extent it may be authorized in law and to the extent the Office has adequate resources available. The savings goal of this proposed initiative is estimated at \$600,000, and the group believes that centralizing this function would enhance best practices for internal audits through quality control, with a consistency and standardization in application in place for school districts county-wide.

**In the long-term,** legislative changes may be necessary if the County Comptroller's Office is to provide the resources to offer school districts high quality, more cost-effective internal audit services. In other regions of the State without a county

comptroller's office that can provide such services, other changes in law may be necessary to facilitate centralization.

***Internal Audit Challenges:*** While the County Comptroller and the Nassau County Audit Working Group school districts are interested in finding ways to save money through internal audit collaboration, the support of the State Comptroller's Office will be essential in interpreting the requirements of the law and developing a standard approach. In addition, the support of the State Comptroller's Office and the State Education Department may be needed to effect the legislative changes necessary to achieve the highest levels of savings.

***Internal Audit Recommendations:*** For the short-term, with the proper allocation of resources, there are likely to be a number of significant benefits in terms of savings and optimization of the internal audit function by utilizing the County Comptroller's assistance.

## **EXTERNAL AUDIT**

Effective July 1, 2005, school district external auditors must be selected pursuant to an RFP (Request for Proposals). The external auditor typically works after the close of the school district fiscal year at which time the auditors conduct a financial audit according to the federal government's *Government Auditing Standards*. This is the independent examination of the school district's financial statements. The goal of the external audit is to determine the extent to which the financial statements present the financial position of its activities and each major fund of the school district, in conformance with generally accepted accounting principles (GAAP).

***External Audit Discussion:*** School districts pay significant amounts for external auditors every year. This audit is critical to provide the public with an independent report of the district's financial condition. Governmental audit standards have become more rigorous in recent years, in order to provide more a comprehensive understanding of district finances – not only for the year being audited, but also well into the future. For example, the Government Accounting Standards Board (GASB) statements 43 and 45 are being phased in based upon budget size. These standards now require disclosure of a school district's Other Post Employment Benefit (OPEB) liabilities – primarily, retiree health and life insurance obligations — well into the future.

### ***EXTERNAL AUDIT RECOMMENDATION: Continue Current Practices***

The external audit is not considered a good candidate for inclusion in the function of any centralized audit bureau.

## **CLAIMS AUDIT**

Effective July 19, 2005, Education Law was amended regarding responsibility for claims audits (excepting wage contracts and debt service payments), requiring that the claims auditor report directly to the school district Board of Education.

Under the law, as amended, the Board of Education itself must audit and approve each claim, or appoint a claims auditor to perform this function on its behalf, in which case the claims auditor must report directly to the Board of Education. The claims auditor reports directly to the superintendent for administrative issues such as work space, supplies, etc. It is no longer required that the claims auditor be a resident of the district. The claims auditor is now classified as exempt for civil service purposes, although anyone currently in a civil service title will maintain that status.

By law, the Board of Education shall be permitted to staff this position using district employees with no other financial or business function responsibilities, an inter-municipal cooperative agreement, shared services (BOCES), or independent contractors.

***Claims Audit Discussion:*** Nassau Schools have generally not found the claims audit to be very expensive. In fact, it is typically the least expensive of all audit function requirements. The rather limited expense of this mandate is likely to move it to the bottom of the list of priorities for immediate collaboration.

***Claims Audit Challenges:*** The relatively low cost makes it a lower priority for school districts.

## **Conclusion**

With the need for greater transparency and a focus on fiscal responsibility, the cost of school district audit services has greatly increased. This is an important function and, to the extent these services can be provided with quality and at lower cost, it is likely to be of interest to Nassau County school districts.

## CHAPTER IV

### Opportunities for Debt Issuance Savings

The Debt Working Group examined the practices of Nassau County school districts relating to debt issuance. Debt service by school districts in Nassau County was \$131.5 million in 2006, and Tax Anticipation Notes (TANs) for cash flow borrowing totaled \$395.5 million, according to the State Comptroller's *Annual Report on Municipal Affairs*. After careful review, the Debt Working Group has recommended two possibilities which require additional evaluation and/or State law or regulatory change to bring savings in this particular function for school districts in Nassau County.

***Key recommendations:***

- ***Grant Nassau BOCES authority to approve school district construction projects costing \$1.5 million or less, rather than depending on State Education Department approval.***
- ***Consolidate cash flow borrowing among school districts for which state aid is at least twice the amount they need to borrow for cash flow purposes.***

School districts typically borrow for two general purposes: to fund capital needs; and to address cash flow shortages over the course of their fiscal year. The 56 school districts in Nassau County are subject to the same legal requirements (e.g., New York State's Constitution and Local Finance Law and the federal tax code and securities laws), and generally borrow for similar projects and reasons. Therefore, it was deemed reasonable to explore the possibility that the districts might save money through a lower cost of issuance, and interest savings.

The group believes there could be savings in one of more of the following three ways: A single transaction would reduce transaction costs such as rating agency, underwriting, and legal expenses; a single larger issue could attract a greater number of investors, with greater competition lowering the interest cost; and the specific construction of the debt would lead to a high credit rating (AA or higher – as high as, or higher than, that of Nassau school districts), thereby lowering the cost of insurance and/or interest.

New York State has developed a statutory program which allows for pooled financing for capital projects, through its Dormitory Authority (DASNY), with the State Comptroller authorized to intercept school district State aid in the event of non-payment on the bonds. The program requires initial and annual charges to offset DASNY administrative costs. The group was unable to construct an alternative means for Nassau school districts to save money through a countywide cooperative for school district capital borrowing, due to the following factors: districts do not borrow at the same time, but only when the need arises and their Board of Education and the State Education Department have approved the project; and the unique documentation needed for each school district debt issue precludes likely transaction savings.



However, the group found that delays in the current approval process are inefficient and costly. Therefore, the group recommends that Nassau BOCES be granted the power to approve school district construction projects costing \$1.5 million or less.

Savings through collaborative school district short-term debt issuance for cash flow purposes, however, may be possible because: all districts borrow for cash flow needs at approximately the same time; the district chief financial officer is empowered to determine the amount of the borrowing; and no Board of Education or State Education Department approval is required.

For many school districts, State aid is less than the amount needed for cash flow borrowing; however, for those school districts for which State aid is at least twice the amount they need to borrow for cash flow purposes, a cooperative cash flow debt issue may be cost-effective. The group believes the savings would be in the reduction in transaction costs for the one document, a possibility of reduced interest costs through a higher level of investor interest and perhaps a higher credit rating than these Nassau districts currently achieve. Implementation of this proposal would require statutory amendment.

### **Discussion:**

#### **Long-term Debt**

The Nassau County school districts borrow for capital projects on an irregular basis. In 2006, Nassau school districts paid \$131.5 million in debt service (principal and interest). However, the timing of capital borrowing will be dependent upon a number of factors, including: age of current district property and facilities; school-age population shifts; local determination of need; district fiscal capacity; amount and availability of State aid; and the approval of the State Education Department (SED). Perhaps most critical of all, the local Board of Education must approve the borrowing and (except for the big five city school districts where the school district is a component of the city itself) the law requires voters to approve the borrowing through a referendum. All of these factors make the collaboration necessary for a single debt issuance more challenging.

Other intrinsic factors of the serial bonds typically issued by New York State school districts are likely to offset possible savings. The primary, and in fact most certain, factor in reducing a school district's borrowing costs would be a reduction in the amount of legal work that is required. However, to issue any security such as long-term bond to the public, a school district is generally required to assemble and disclose a significant amount of current information unique to that district, including: numerous factors relating to the district's financial ability to pay the debt service required; and the specific projects (most bond issues include a number of different items) for which the debt is being issued, the section of the State's Local Finance Law which permits debt to be issued for such

purpose, and the term of the debt. This information is prepared by bond attorneys along with staff of the school districts. In addition, bond counsel must provide an opinion regarding the validity of the debt and its taxable status.

The State of New York has already developed an alternative program whereby school districts may issue debt collaboratively for capital projects. According to the Dormitory Authority of the State of New York (DASNY) website, “The Dormitory Authority’s current School Districts Revenue Bond Financing Program is designed to provide public school districts across New York State with an efficient financing alternative in light of the current methodology used to reimburse school districts for the cost of capital projects through State Building Aid.” The school district bonds, which are backed by their full faith and credit, are sold directly to DASNY and law requires that the State Comptroller intercept State aid due to any participating school district that fails to make timely payment on its bonds. This program has been used primarily for refinancing bonds to date. The program requires additional charges to offset DASNY administrative costs.<sup>4</sup> The program has an A3/A+/A+ rating.

The Debt Working Group does not see a way by which issuance costs might be minimized for a long-term series of bonds through a pooled issue by school districts in Nassau County. In addition, a strategy to minimize the impact of the many other factors required to bring a long-term debt issue to market has not been determined at this time, further undermining this possibility for collaboration.

**Recommendation:** Cooperative issuance of long-term debt should be tabled in favor of other more immediate undertakings.

### **Strategy for Savings on Long-term Bonds**

One of the very time-consuming factors affecting the bonding of a necessary project relates to State Education Department (SED) approval. There are nearly 700 school districts in New York State, including more than 1,400 New York City schools serving more than a million students. Given these numbers, there are inevitably many, many school district building projects proposed at a single time, often causing a lengthy wait for SED feedback and approval.

Nassau BOCES serves as SED’s representative for school districts within the County. It could save time and money if Nassau BOCES were authorized to approve some of the

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<sup>4</sup> According to the DASNY website, “The Dormitory Authority charges an upfront fee of \$75,000 per financing, which is split evenly among the participating school districts in pooled financings for multiple participants. The Dormitory Authority also charges each school district an annual administrative fee of 5 basis points based on the original par amount of bonds issued on behalf of such school district for as long as the school district’s bonds remain outstanding.

smaller school district building projects – perhaps those costing \$1.5 million or less – the same level for which school districts are not required to follow the requirements of the Wicks Law.

### **Recommendation: Next Steps to Achieve Savings on Long-term Bonds**

1. Seek State law and/or State Education Department regulatory approval for Nassau BOCES to approve school district construction projects costing \$1.5 million or less.
2. Nassau BOCES would need to acquire staff necessary to take on this new function.
3. SED would work with BOCES to provide the necessary training to successfully provide this new service.

### **Short-term Debt**

All, or nearly all, school districts borrow to bolster low cash flow in the early part of their July 1 – June 30 fiscal year. Under the New York State Local Finance Law, districts are authorized to issue Tax Anticipation Notes (TANs) or Revenue Anticipation Notes (RANs) for cash flow purposes. TANs are issued in anticipation of property tax revenues which materialize later in the fiscal year. RANs are issued in anticipation of other school district revenues, such as State or federal aid, tuition, or other non-property tax revenues. Both must be repaid within one year of issuance, but may be renewed for specified periods of time. In 2006, school districts in Nassau County reported the issuance of \$395.5 million in Tax Anticipation Notes (TANs) for their short-term cash flow needs.

Collaborative school district short-term debt issuance for cash flow purposes may be possible and has the potential to bring savings to the participating school districts. Coordination could be a relatively simple matter, particularly if a common practice were adopted. Factors that make for ease of implementation include the following:

- All districts borrow for cash flow needs at approximately the same time;
- The authorization process is quite straightforward. The district chief fiscal officer determines the amount needed to meet the district's cash flow requirements and the Board of Education approves a resolution authorizing the debt; and
- No voter or SED approval is required.

A cooperative TAN issuance might prove more costly than a RAN issue. TANs are secured by the school district's anticipated property tax revenues. Disclosure for these issues includes similar information to other long-term general obligation debt issues. Developing the legal documentation of the district's fiscal viability is again an extensive and more costly process – something that is unlikely to be reduced in a collaborative

issue. However, the issuance of a single RAN for some Nassau school districts holds promise, assuming the locality receives State aid in an amount at least double the amount needed for cash flow borrowing, and assuming State authorizing legislation were enacted.

As envisioned, the legislation would authorize a single countywide school district RAN issue, whereby the districts would assign their anticipated State aid to a passive trust, which, in turn, would pledge said State aid amounts (only) to the repayment of the debt. The disclosure required for the RAN would be streamlined, consisting mainly of the State aid assigned and pledged. Disclosure would not need to include detailed information on each school district, resulting in reduced cost of issuance, and therefore, school district savings.

This cooperative structure for cash flow financing would not be the first of its kind. The California Communities® Tax and Revenue Anticipation Notes (“TRANs”) Program was developed for a similar purpose, as an inexpensive method of financing short-term cash shortfalls and usually produces additional income through arbitrage, as permitted by applicable law. Issuers have found that it saves both time and money when compared to stand-alone borrowings. Since its inception, this program has issued over \$7 billion in TRANs for more than 150 California communities.

For many school districts in Nassau County, State aid is reported to be less than the amount needed for cash flow borrowing. However, for those school districts for which State aid is at least twice the amount needed to borrow for cash flow purposes, a cooperative cash flow debt issue may be cost-effective. The group believes the savings would be in the reduction in transaction costs for the one document (rather than a document for each participating school district) and a possibility of reduced interest costs through a higher level of investor interest and (perhaps) a higher credit rating than these Nassau districts currently achieve.

As noted, while the above-described RAN structure being explored at this time is not authorized in current law, the Debt Working Group believes it could prove cost-effective for some of the districts, assuming the necessary legislative changes.

### **Recommendation: Next Steps to Achieve Savings on Short-term Borrowing**

1. Continue to assess viability of issue, based on typical collective debt to State aid ratios.
2. Utilize County personnel for ongoing support and guidance.
3. Conduct informal off-line discussions with rating agencies to verify the viability of the proposed structure.
4. Discuss the concept with a State Comptroller representative in hopes of getting support for the required legislative changes.
5. Propose legislative changes, perhaps as a demonstration project in Nassau County. Schools would need authorization to assign State aid for repayment of the debt, which would be issued by a passive trust.

## **Conclusion**

The Debt Working Group believes the opportunity for most immediate savings might be through the authorization of Nassau BOCES to approve capital projects valued at \$1.5 million or less. Additional assessment is needed to determine the viability and potential savings of a pooled short-term debt issuance by school districts in Nassau County which receive State aid in an amount equal to at least twice the amount needed for annual cash flow borrowing.

## CHAPTER V

### Opportunities for Legal Services Savings

As with other units of government, school districts are subject to claims, litigation and ongoing issues that require the services of legal counsel. Ready access to lawyers with the necessary skills and experience is critical in continuing to provide the high quality educational services that Nassau County residents have come to expect from their schools.

Both attorneys for a school district and County attorneys are often called upon to help in many ways, including establishment of policies, researching legal issues, and ensuring that all activities are in full compliance with the myriad general and case laws, regulations, and pertinent arbitration decisions that govern their operations. Because participation in this exploratory program cannot be estimated at present, no savings are quantifiable for this first phase.

Nassau County and school districts are interested in mutually exploring potential opportunities to reduce the cost of legal services in order to help lower overall operating costs through a shared services initiative. Because this will be an entirely optional program and participation is uncertain at this time, no savings are projected for this first, exploratory phase.

***Key recommendation:***

- ***Based on each individual school board's decision, utilize Office of the County Attorney for free legal services on a select variety of school district issues. Continue to explore opportunities for shared services.***

**Discussion:**

The complexity of governance issues, and the financial implications they implicate, make the selection and retention of legal counsel one of the most crucial decisions school boards face on an annual basis.

The school districts have identified legal needs generally falling into the following three areas:

- Labor contract negotiation and contract administration (including grievances);
- Special education matters (settlements and hearings); and
- General counseling and/or legal action on an ongoing basis with regard to a large range of issues.

Under their General Counsel retainers, school districts employ law firms to provide the following services:

- Render legal opinions orally and in memoranda concerning matters affecting the administration of the district;
- Execute correspondence on behalf of the school district where it may have legal implications;
- Prepare all legal documents and notices in connection with budget votes and elections, and maintain a legal presence on the day of such events;
- Represent the district in the purchase, sale or lease of school district property from the initial stage of negotiations to closing;
- Provide counsel regarding residency issues;
- Render legal advice and assistance in the development of school district policy;
- Confer in preparation of all legal documents in connection with short term borrowing;
- Cooperate with bond counsel in connection with bond issues attendant upon long term borrowing;
- Write, review or approve contracts , including Inter Municipal Agreements, between the districts and other parties;
- Examine and approve vendors bonds, insurance policies and other legal documents;
- Provide counsel on matters under the category of litigation that are settled in the early stages;
- Attend Board of Education meetings;
- Provide staff development workshops for administrative and other district staff upon request;
- Provide counsel on such matters as Freedom of Information Laws and due process rights; and
- Address other issues, upon specific request.

Presently, the New York State Insurance Reciprocal (or other insurance companies) provides litigation representation to school districts at no additional cost in such matters as discrimination claims before the State Human Rights Commission, the EEOC, and to state and federal courts.



At the same time, the Office of the County Attorney is a “full service” municipal law office. Among the bureaus that could potentially serve the school districts are the following:

- The Labor Bureau has expertise with respect to all aspects of Civil Service Law and employee discipline, including discipline pursuant to the requirements of collective bargaining agreements. The Bureau also defends the County against discrimination claims before the State Human Rights Commission and the U.S. Equal Employment Opportunity Commission (EEOC);
- The General Litigation Bureau represents the County in federal and state courts. In addition to representing the County in a large range of issues in state courts, this Bureau has developed significant expertise in federal employment discrimination suits as well as claims in federal courts alleging improper government practices in various areas;
- The Legal Counsel Bureau provides general counsel regarding any matter of concern to the County. The Bureau provides advice in all areas affecting municipalities, such as: freedom of information laws; the powers of municipal corporations; residency laws; municipal procurement of goods and services; privacy laws under state and federal statutes; Constitutional issues such as free speech and religious freedom under the First Amendment; immigrant rights; conflicts of interest and ethics issues; affirmative action; and due process requirements. The Bureau also drafts local and state legislation on matters of County concern and prepares memoranda in support or opposition to pending State bills;
- The Municipal Transactions Bureau has expertise in municipal procurement issues, helps to negotiate and reviews all County contracts. This Bureau also assists in negotiations and performs the legal work necessary to the County real estate interests;
- The Municipal Finance Bureau works with the County’s financial departments in bonding matters and advises extensively regarding the powers and limitations of municipalities to receive and grant moneys;
- The Appeals Bureau takes appeals from lower court decisions that adversely affect the County; and
- The Affirmative Litigation Bureau represents the interests of the County in its posture as a plaintiff. As an example, this Bureau recently successfully challenged a determination by the U.S. Department of Health and Human Services to cut AIDS funding for Nassau and Suffolk Counties.

## **Conclusion**

In order to provide concrete experience to the ongoing discussion regarding possible opportunities for lowering the cost of high quality school district legal services, the Office of the County Attorney has offered to provide, on a trial basis and upon written school board request, free legal services on a select variety of school district issues for a period of one year. We anticipate that this exploratory period will provide the familiarity and knowledge to enable the working group to evaluate the potential for expanding the effort.